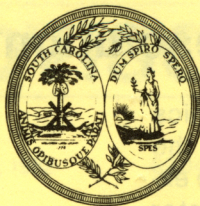


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Chairman
ALLEN L. RAY, 6TH DISTRICT
Vice Chairman



COMMISSIONERS
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DR. LEOLA ADAMS, 2ND DISTRICT
DR. D.H. DANIEL, 3RD DISTRICT
FRANCES M. DANIEL, 5TH DISTRICT

GARY R. BAKER
EXECUTIVE DIRECTOR

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NEWSLETTER

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July 1982

STATE DOCUMENTS

No. 82-004

COMMISSION RELEASES STUDY OF HOUSE DISCIPLINARY RULE

The State Ethics Commission recently released a study which condemns the passage on April 29, 1982 of a rule in the House of Representatives providing for suspension of its members sentenced to more than two years imprisonment.

The State Ethics Commission characterized the rule as inequitable, confusing, and ethically unsound, noting that it robs constituents of representation and may be unconstitutional.

The Governor suspends officials who are not members of the General Assembly at the time that person is formally charged with a crime by a grand jury. Upon conviction, that person is automatically removed from office by the Governor.

The House rule provides for suspension only upon sentence of more than two years, with expulsion only taking effect upon completion of all appeals. Violation of ethics statutes, which carry a maximum 90 day sentence, would not involve automatic suspension or expulsion under this rule.

The Commission in studying the rule determined that while members of the House are not within their jurisdiction, the equitable and efficient handling of such ethical and legal matters is of great importance to restoring public trust in government. The Commission condemned the rule for its treatment of House members more favorably than other public officials, and even more favorably than voters. Private citizens convicted of felonies or election law violations have their voting privileges removed, while House members may continue to hold office and even run for re-election.

The two-year imprisonment provision could be bypassed through plea bargaining by agreeing to be sentenced for a crime involving a lesser sentence. The Commission also criticized the rule's confusing and contradictory language. According to the Commission, the rule appears to lack constitutional basis, since the House is the judge of its members, not the courts.

COMPLAINT DISPOSITIONS

On April 20, the State Ethics Commission cited Gerald R. Bilton, defeated candidate for Irmo Town Council, for failure to file a timely Campaign Disclosure Form, in connection with an election held on September 8, 1981.

Samuel W. Creech, Jr., defeated candidate for Blackville City Council, and Haynie C. Cox, defeated candidate for Honea Path Town Council, were cited at the Commission's June 10 meeting for failure to file timely Campaign Disclosure Forms.

Both Bilton and Creech were issued public reprimands for filing the forms after the issuance of the complaints, which were filed by Gary R. Baker, Commission Executive Director. The matter involving Cox was referred to the Attorney General's Office for further action since no Campaign Disclosure Form has been received.

GREER RESIGNS AS CHAIRMAN; PATRICK APPOINTED

W. Jack Greer, Chairman of the State Ethics Commission since its inception, recently resigned from the Commission to pursue other interests. Greer, representing the Fourth Congressional District, resigned effective June 30. Greer was recently appointed by President Reagan to serve on the Presidential Advisory Committee on Small and Minority Business Ownership.

Greer will be replaced on the Commission by C. Hugh Patrick, Jr. of Greenville. A native of Greenville, Patrick is the President of Pat Chem, Inc., a specialty textile chemical firm. A graduate of Clemson, Patrick is married and the father of five sons.

Commission Issues Resolution; Proposes Legislation

On March 31, the members of the State Ethics Commission released a resolution condemning the actions by the South Carolina State Senate in the expulsion activities involving former State Senator Eugene Carmichael. The resolution, signed by the six commissioners, states:

RESOLUTION

"WHEREAS, the State Ethics Commission is an agency of the State of South Carolina with responsibility for implementation, administration, and enforcement of certain aspects of the State Ethics Act;

AND WHEREAS, since February 1976, the members and staff of the State Ethics Commission have devoted considerable time and effort in carrying out the legislative mandate to restore public confidence in public office through implementation, administration, and enforcement of the State Ethics Act;

AND WHEREAS, the State Ethics Commission has spent untold hours concerning the details of ethical public conduct;

AND WHEREAS, the action by the South Carolina Senate makes a mockery of this effort by allowing a convicted felon to sit in their midst making laws, levying taxes, and sitting in judgment on the affairs of the State, while the State Ethics Commission is required to chastise a possible candidate for being late in filing a disclosure report;

AND WHEREAS, the State Ethics Commission has taken actions and made decisions which have been difficult, but which have been administered equitably and in accordance with sound ethical principles;

AND WHEREAS, the members and staff of the State Ethics Commission serve the public to protect and preserve the dignity of the institution of public service;

AND WHEREAS, public office is a trust granted by the citizens of the State of South Carolina;

AND WHEREAS, violations of the public trust must be handled as expeditiously as possible, with appropriate due process;

AND WHEREAS, the State Ethics Commission has been implicated, not through official responsibility nor jurisdiction, but through association by the public, with the matter involving Senator Eugene Carmichael;

AND WHEREAS, this association by the public has discredited much of the time, effort, and accomplishments of the State Ethics Commission;

AND WHEREAS, the recent matter involving Senator Eugene Carmichael has eroded public confidence in this public trust;

AND WHEREAS, citizens of the State of South Carolina have questioned the effectiveness, efficiency, and equity of statutes which allow some persons convicted in a court of law to continue to hold and function in a public office;

AND WHEREAS, public officeholders in South Carolina are generally subject to suspension upon criminal indictment, and are further subject to expulsion or loss of employment upon conviction;

NOW THEREFORE BE IT RESOLVED, that the State Ethics Commission expresses its grave concern as to the damage done to the public trust, bringing discredit upon the proper functioning of the State Ethics Act;

AND BE IT FURTHER RESOLVED, that the State Ethics Commission requests that the Governor and the members of the General Assembly take necessary actions to ensure that relevant statutes and Constitutional provisions are enacted to prevent the further erosion of public confidence in their public officeholders;

AND BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Governor, the President of the Senate and Speaker of the House of Representatives, the Chairman of the Senate Ethics Committee, and the Chairman of the House of Representatives Ethics Committee."

STATE ETHICS COMMISSION

At it's April 20 meeting, the Commission met with Governor Riley, a member of the Lieutenant Governor's staff, Attorney General Daniel McLeod, Senator Robert Lake, and Representative Patrick Harris to discuss the request that these state officials take actions to insure the enactment of statutory and constitutional provisions to prevent further erosion of public confidence.

At the meeting, the Commission proposed Constitutional amendments to provide for automatic suspension of any public officeholder indicted for a crime and automatic expulsion or termination upon conviction. The Commission also proposed a prohibition against such convicted officeholders holding or obtaining public office or public employment for an established period of time. The Commission further proposed establishing the State Ethics Commission as an independent agency to receive all required statements, investigate and hear any complaints, and forward its findings to the appropriate legislative ethics committee.

The Commission further recommended that a special task force be appointed to explore and recommend legislation to clarify and strengthen the State Ethics Act.

DIGEST OF ADVISORY OPINIONS

82-036

April 20, 1982

**SUBJECT: STATE EMPLOYEE AS INVESTOR
IN AUTOMOBILE DEALERSHIP**

An Executive Assistant with the Department of Social Services may invest in a corporation which has contracted to purchase an automobile dealership. The stockholder, however, may not participate in the procurement process and may take no official actions nor make official decisions concerning contracts to purchase automobiles.

82-037

April 20, 1982

**SUBJECT: PAYMENT OF CIVIC CLUB DUES
BY RECREATION COMMISSION**

Payment of civic club dues for a Recreation Commission employee may be made, provided the governing board determines that such payment is in the beneficial interest of the commission and provided that it is approved by the governing board.

82-038

April 20, 1982

**SUBJECT: POSSIBLE CONFLICT OF INTEREST -
USING OFFICE TO OBTAIN FINANCIAL GAIN**

It would appear to violate §8-13-410 of the State Ethics Act for elected officials or public employees to take actions to place themselves on an additional payroll, the funds of which would normally go to reimburse the county operating fund. The acceptance of compensation which is not provided legally would appear to violate this section. Legal advice is recommended to determine whether the compensation is provided legally. Upon learning of such a violation, the County Council may proceed to follow local disciplinary or administrative procedures or may file a complaint with the State Ethics Commission.

82-039

April 20, 1982

**SUBJECT: ACCEPTANCE OF PLANT VISIT
BY DHEC EMPLOYEES**

Engineers with the Department of Health and Environmental Control who have responsibility for regulation and enforcement of wastewater treatment facilities were advised against acceptance of a visit to a wastewater treatment equipment plant in Ohio in accordance with §8-13-490 which prohibits employees of regulatory agencies accepting anything of value from regulated businesses.

82-040

April 20, 1982

**SUBJECT: BUSINESS INTERESTS OF NEWLY-
APPOINTED TAX COMMISSIONER**

A newly-appointed Tax Commissioner was advised that he could continue his private accounting practice in accordance with off-duty employment guidelines. He was further advised that he should follow the procedures of §8-13-460 in disclosing his interest and disqualifying himself from any matters before the Tax Commission involving his accounting practice or clients of that practice.

82-041

April 20, 1982

**SUBJECT: POTENTIAL CONFLICT OF INTERESTS-
CIVIL DEFENSE BOARD MEMBERS**

Members of a county emergency medical service who also serve on the county civil defense board were advised to follow the disclosure and disqualification procedures of §8-13-460 concerning a proposal to integrate the emergency medical service personnel into the civil defense program.

82-042

April 20, 1982

**SUBJECT: COUNTY COUNCILMAN
PURSUING ELECTION MATTER**

A member of Colleton County Council whose term in office has been extended due to a Court Order restraining any further elections may continue to pursue legal redress, thus preventing further elections, without creating a conflict of interests.

82-043

April 20, 1982

**SUBJECT: CITY COUNCILMAN ALSO SERVING
AS VOLUNTEER FIREMAN**

There does not appear to be any prohibition against a volunteer fireman also serving as a city councilman provided that the disclosure and disqualification procedures of §8-13-460 are followed. The Commission also advised that the city attorney be consulted concerning additional possible restrictions.

82-044

April 20, 1982

**SUBJECT: COMPUTER EQUIPMENT COMPANY
GRANTING EQUIPMENT TO STATE COLLEGE**

The State Ethics Act would not prohibit a computer company from granting computer equipment to S.C. State College since no public officials or employees would benefit personally. The Commission recommended that the Division of General Services be contacted concerning the applicability of the Consolidated Procurement Code to the matter.

82-045

May 15, 1982

**SUBJECT: COUNTY COUNCILMAN
CONDUCTING BUSINESS WITH COUNTY**

A Colleton County Councilman who is a general contractor which from time to time may bid on work being done by the county may continue such business but may not participate in the contract procurement process. In accordance with §8-13-460, the councilman may not participate in votes, deliberations or other official actions on such business.

82-046

May 15, 1982

**SUBJECT: ACCEPTANCE OF AIRLINE TICKET
BY MAYOR**

The Mayor of Charleston, who serves on the Charleston Aviation Authority, was advised against accepting a free airline ticket provided by a tenant airline since the Authority is regulatory in nature.

**SUBJECT: POTENTIAL CONFLICT OF INTERESTS -
COUNTY COUNCIL MEMBER IN LAW FIRM
OF COUNTY ATTORNEY**

A County Councilman whose law partner is the county attorney would be required to follow the disclosure and disqualification procedures of §8-13-460 on matters affecting this partnership. The Commission advised that, if the councilman or attorney is required to follow such procedures frequently that one or the other should consider resignation from the official position since it removes representation of a portion of the constituents.

82-048

June 10, 1982

**SUBJECT: COUNTY COUNCIL MEMBER VOTING ON
APPROPRIATION FOR PRIVATE ASSOCIATION**

A member of Dorchester County Council would be required to follow the disclosure and disqualification procedures of §8-13-460 concerning county appropriations to the Dorchester County Association for Retarded Citizens of which she serves as a Board member.

82-049

June 10, 1982

**SUBJECT: POTENTIAL CONFLICTS OF INTERESTS -
PLANNING COMMISSION MEMBERS**

Members of the Greenville County Planning Commission who are associated with businesses which will be affected directly and substantially by the actions of that Commission would be required to follow the disclosure and disqualification procedures of §8-13-460. The mere fact that these members are associated with businesses which may benefit from an action is not sufficient criteria to require disqualification, but only if their interests will be directly affected.

State Ethics Commission

**REMBERT DENNIS BLDG., STE. 545
1000 ASSEMBLY STREET
COLUMBIA, S.C. 29201**

**SUBJECT: RECEIPT OF TRAVEL EXPENSES BY
ADMINISTRATOR OF CONSUMER AFFAIRS DEPARTMENT**

The Administrator of the Consumer Affairs Department was advised not to accept the payment of meals and lodging by various associations of businesses while engaging in a statewide program of seminars to inform these businesses of a new law regulating credit sales and certain consumer loans since the Department has a regulatory function over such businesses.

82-051

June 10, 1982

**SUBJECT: MUNICIPAL ELECTION COMMISSION CHAIRMAN
AS CANDIDATE FOR MAYOR**

There are no prohibitions in the State Ethics Act against a Municipal Election Commission Chairman being a candidate for Mayor. The Chairman, however, must follow the disclosure and disqualification procedures of §8-13-460 on matters affecting his personal candidacy.

82-052

June 10, 1982

**SUBJECT: LAW PARTNER OF COUNTY ATTORNEY
SERVING ON COUNTY COUNCIL**

The law partner of the county attorney may serve on the county council, however, the provisions of §8-13-460 would be required on matters affecting the partnership. The Commission advised that if frequent disqualification is necessary, one or the other should consider resignation so as not to remove representation from the constituents.

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